SINGLE BENCH

C.P.101

(1)

**IN THE HIGH COURT OF CHHATTISGARH**

**AT BILASPUR**

**WRIT PETITION No. 5448 / 2005**

**PETITIONER DEFENDANT** : Bhismdev S/o Bhagatram, Aged about- 42 years, R/o. Village- Tilaimal, Patwari Halka No.-17, Revenue Circle- Khamharpali, Tahsil- Saraipali, District- Mahasamund (C.G.).

**VERSUS**

**RESPONDENTS PLAINTIFFS**

1- Mus. Gupta Bai D/o Chakradhar, Aged about- 70 years, Caste- Agharia, R/o. Village- Charbhata, Tahsil- Saraipali, District- Mahasamund (C.G.).

2- Dubkunwar D/o. Chakradhar, Aged about- 55 years, R/o. Village- Tilaimal, Police Station & Tahsil- Saraipali, District- Mahasamund.

P.R. No. 5501/05
Presented by Shri C.P. Lahara
dated 20/10/05

3- Gajpati S/o. Baratram, Aged about- 55 years, Village- Tilaimal, Police Station & Tahsil- Saraipali, District- Mahasamund (C.G.).

***WRIT PETITION UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA.***

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

# आदेश पत्रक

मामला क्रमांक W.P. 5448 सन् 2005

विरुद्ध

| आदेश का दिनांक आदेश क्रमांक सहित | आदेश हस्ताक्षर सहित | कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश |
|---|---|---|
| | **6.3.2006**<br>**W.P.No.5448/2005**<br>Shri P.K. Patel, counsel for the petitioner.<br>Heard on admission.<br>This is a petition filed under Article 227 of the Constitution of India; against the order dated 23.8.2005 passed by the Court of Civil Judge Class-1, Saraipali in Civil Suit No. 13-A/2004. It appears that the respondents/plaintiffs filed a suit for declaration that the registered Will-deed dated 26.2.2004 be cancelled and it be also declared a forged document along with the consequential relief of permanent injunction. During the pendency of the civil suit, after filing of the written statement, the plaintiffs filed an application under Order 6, Rule-17 of the C.P.C. for amendment of the plaint and they sought amendment that they may be declared the owner of the property on the basis of perfection of their title by way of adverse possession. The learned trial Judge allowed their application for amendment against which this writ petition has been filed.<br>A perusal of the plaint would show that the same was filed for relief of declaration and permanent injunction on the ground of the Will-deed to be a forged document and if any such application is filed at the preliminary stage for incorporating the amendment that the plaintiffs have also perfected their title by way of adverse possession, there appears to be no illegality in the order of the trial | |

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

# आदेश पत्रक

मामला क्रमांक W.P. 5448 सन् 2005

(39)

विरुद्ध

| आदेश का दिनांक आदेश क्रमांक सहित | आदेश हस्ताक्षर सहित | कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश |
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| | -2- | |

Judge by allowing the application under Order 6, Rule 17 of the C.P.C.

The underlying principles under Rule 17 of Order 6 is that the Court may at any time allow either of the party to amend pleadings on such terms and conditions which may be just and that may be done for the purpose of determining the real question in controversy between the parties. One of the important underlying principles is that if by incorporating an amendment, the multiplicity of litigations is prevented that amendment may be allowed provided the same is within the scope of the lis already pending before the Court.

There appears to be no illegality in the orders passed by the Court below. The petition has no merits and the same is dismissed summarily.

Sd/-
Sunil Kumar Sinha
Judge

Sunita

[पीछे देखिये